

1 JOSEPH P. RUSSONIELLO (CSBN 44332)  
United States Attorney  
2 JOANN M. SWANSON (SBN 88143)  
Chief, Civil Division  
3 MELISSA K. BROWN (SBN 203307)  
Assistant United States Attorney

4 450 Golden Gate Avenue, 10th Floor  
5 San Francisco, California 94102-3495  
6 Telephone: (415) 436-6962  
Facsimile: (415) 436-6748  
7 Email: melissa.k.brown@usdoj.gov

8 Attorneys for Federal Defendants

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

E.K. WADE, }  
Plaintiff, } No. C 08-00021 CRB  
v. }  
ELAINE CHAO, SECRETARY OF }  
LABOR, ET AL. }  
Defendant. }  
\_\_\_\_\_  
I

**DECLARATION OF MELISSA K.  
BROWN IN SUPPORT OF EX PARTE  
MOTION PURSUANT TO FED. R. CIV.  
P. 56(f)**

I Melissa K. Brown declare and state as follows:

1. I am employed by the United States Attorney's Office, Northern District of  
2 California, as an Assistant United States Attorney. My current employment address is 450  
3 Golden Gate Avenue, Box 36055, San Francisco, California, 94102. I am the attorney assigned  
4 to the above-captioned matter.

2. On January 3, 2008, Plaintiff E.K. Wade ("Plaintiff") served the United States  
3 Attorney's Office with a Complaint in the above captioned matter. The Complaint is over one-  
4 hundred pages long and involves eleven individual federal Defendants and the Secretary of the  
5 Department of Labor (collectively, "Defendants"). Pursuant to Fed. R. Civ. P. 12(a)(3),  
6 Defendants' responsive pleading is due on March 3, 2008.

3. On February 4, 2008, Plaintiff filed a Motion for Summary Judgment ("Plaintiff's  
Motion").

4. On January 2, 2008, Plaintiff filed and served the United States Attorney's Office with a complaint in Case No. C 08-00001 MJJ. Pursuant to Fed. R. Civ. P. 12(a)(3), Defendants' responsive pleading is due on March 3, 2008.

5. On February 4, 2008, the Defendants moved to consolidate Case No. C 08-00001 and Case No. C 08-00021 and requested that the Plaintiff be ordered to file one Complaint in the Case No. C 08-00001. The Defendants are awaiting a response to their motion.

Signed this 8th day of February, 2008, in San Francisco, California.

Respectfully submitted,

JOSEPH P. RUSSONIELLO  
United States Attorney

s/Melissa Brown

Dated: February 8, 2008

MELISSA K. BROWN  
Assistant United States Attorney

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

**DECLARATION OF MELISSA K. BROWN IN SUPPORT OF EX PARTE MOTION  
PURSUANT TO FED. R. CIV. P. 56(f)**

to be served this date upon the party in this action by placing a true copy thereof in a sealed envelope, and served as follows:

**X** **FIRST CLASS MAIL** by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

## **PERSONAL SERVICE (BY MESSENGER)**

# FEDERAL EXPRESS

**FACSIMILE (FAX)** Telephone No.: See Below

to the party(ies) addressed as follows:

E.K. Wade  
542 North Civic Drive, Apt. D  
Walnut Creek, CA 94597

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on February 8, 2008 at San Francisco, California.

CAROL E. WEXELBAUM  
Legal Assistant